

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Pierre Devlin

Case No.: 2:21-cv-01266-JAD-DJA

Petitioner

**Order Granting Motion for  
Reconsideration, Reopening Case, and  
Appointing Counsel**

v.

W. Hutchings, *et al.*,

[ECF Nos. 1-2, 6]

Respondents

This is a petition for a writ of habeas corpus by Pierre Devlin, who is incarcerated at the Southern Desert Correctional Center in Indian Springs, Nevada. Devlin submitted his habeas petition<sup>1</sup> for filing on July 2, 2021, but he did not then pay the \$5 filing fee or apply to proceed *in forma pauperis*. So I dismissed this case without prejudice to Devlin's ability to initiate a new habeas corpus action. On September 15, 2021, Devlin filed a motion for clarification or reconsideration,<sup>2</sup> requesting that the court accept payment of the filing fee and reinstate this case. Devlin included payment of the filing fee with his motion.<sup>3</sup> Good cause appearing, I grant Devlin's motion, vacate the judgment dismissing this action, accept his filing fee, and order his habeas petition<sup>4</sup> and his motion for appointment of counsel<sup>5</sup> filed.

I have also examined Devlin's petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and I determine that it merits service upon the

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<sup>1</sup> ECF No. 1-1.

<sup>2</sup> ECF No. 6.

<sup>3</sup> ECF No. 5.

<sup>4</sup> ECF No. 1-1.

<sup>5</sup> ECF No. 1-2.

1 respondents. So I order the petition served on the respondents, and I direct the respondents to  
2 appear, but I do not require any further action on their part at this time.

3 Devlin also moves the court to appoint an attorney to represent him in this habeas case.  
4 There is no constitutional right to appointed counsel for a federal habeas corpus proceeding,<sup>6</sup> but  
5 the court must appoint an attorney if (1) a case is so complex denying counsel would deny due  
6 process or (2) the petitioner's education is so limited that he is incapable of fairly presenting his  
7 claims.<sup>7</sup> Devlin was convicted, after a jury trial, of eleven crimes stemming from a shooting in  
8 Las Vegas, and he is serving relatively long prison sentences.<sup>8</sup> His petition includes 29 grounds  
9 for relief and may raise relatively complex issues. It also appears that he will not be able to  
10 adequately litigate this action without counsel. I therefore find that appointment of counsel is in  
11 the interests of justice, so I grant his motion.

12 IT IS THEREFORE ORDERED that Petitioner's Motion for Clarification/  
13 Reconsideration **[ECF No. 6] is GRANTED.**

14 IT IS FURTHER ORDERED that the judgment entered in this action on July 6, 2021,  
15 **[ECF No. 4] is VACATED.**

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21 <sup>6</sup> *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th  
Cir. 1993).

22 <sup>7</sup> *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987);  
*Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984); *Hawkins v.*  
*Bennett*, 423 F.2d 948 (8th Cir. 1970).


23 <sup>8</sup> According to his petition, Devlin's prison sentences total 12 to 56 years in the aggregate. *See*  
ECF No. 1-1 at 2.

1 IT IS FURTHER ORDERED that Petitioner's Motion for Appointment of Counsel [ECF  
2 No. 1-2] is **GRANTED**. The Federal Public Defender for the District of Nevada (FPD) is  
3 appointed to represent petitioner. The FPD will have 30 days from the date of this order to file a  
4 notice of appearance or to indicate its inability to represent the petitioner in this case. If the FPD  
5 is unable to represent him because of a conflict of interest or otherwise, alternate counsel will be  
6 appointed. Counsel will represent petitioner in all federal court proceedings relating to this  
7 matter unless allowed to withdraw. Once counsel has entered an appearance in this case, the  
8 court will issue a scheduling order that will, among other things, set a deadline for counsel to file  
9 an amended petition.

10 IT IS FURTHER ORDERED that the Clerk of the Court is directed to:

- 11 • **REOPEN THIS CASE;**
  - 12 • **SEPARATELY FILE** the Petition for Writ of Habeas Corpus (ECF No. 1-1) and  
13 the Motion for Appointment of Counsel (ECF No. 1-2);
  - 14 • **ELECTRONICALLY SERVE** upon the FPD a copy of this order and a copy of  
15 the petition for writ of habeas corpus (ECF No. 1-1); and
  - 16 • **ADD** Aaron Ford, Attorney General of the State of Nevada, as counsel for  
17 respondents and provide respondents an electronic copy of all items previously  
18 filed in this case by regenerating the Notice of Electronic Filing to the office of  
19 the AG only.
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1 IT IS FURTHER ORDERED that respondents have 30 days from the date of this order to  
2 appear in this action. Respondents will not be required to respond to the habeas petition at this  
3 time.

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5 U.S. District Judge Jennifer A. Dorsey  
6 Dated: September 17, 2021  
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